

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

x

MARICULTURA DEL NORTE, S. DE R.L. DE
C.V. and SERVAX BLEU, S. DE R.L. DE C.V.,

Plaintiffs,

-against-

No. 14 Civ. 10143 (CM)

WORLDBUSINESS CAPITAL, INC.; UMAMI
SUSTAINABLE SEAFOOD, INC.; CRAIG A.
TASHJIAN; and AMERRA CAPITAL
MANAGEMENT, LLC,

Defendants.

**ORDER REGARDING SERVAX'S MOTION FOR SATISFACTION
OF THE REVISED AMENDED JUDGMENT**

McMahon, C.J.:

On March 2, 2020, this Court settled the final outstanding issues raised in the cross-motions to reopen and revise the judgment filed by Servax Bleu, S. de R.L. de C.V. ("Servax") and judgment debtor Umami Sustainable Seafood, Inc. ("Umami"). (Dkt. Nos. 277, 287.) Following the March 2 order (Dkt. No. 314) and the earlier order disposing of the parties' cross motions under Rule 60 and granting in part Servax's motion for a writ of execution (Dkt. No. 306), the parties do not dispute that the current value of the Amended Judgment is \$1,471,763.74. (*See* Dkt. Nos. 315, 316.)

On March 6, 2020, Servax moved this Court to order the surety of Umami's supersedeas bond, Atlantic Specialty Insurance Company ("Atlantic"), to satisfy the revised Amendment Judgment, "plus \$49.67 per diem interest thereafter, within five business days." (Dkt. No. 315 at 2.)

Umami opposed Servax's motion, claiming that the present value of the judgment is not final, and, therefore, payment cannot be due; specifically, Umami still had the opportunity to take an appeal from the Court's Rule 60 order. (*See* Dkt. No. 316.) Umami exercised that right on March 16, 2020. (Dkt. No. 319.)

Umami already appealed the Amended Judgment, which the Second Circuit affirmed. *See Maricultura del Norte, S. de. R.L. de C.V., et al. v. Umami Sustainable Seafood*, 769 Fed. Appx. 44 (2d Cir. 2019). Any further appeal would "[bring] up for review only the denial of the [Rule 60] motion and not the merits of the underlying judgment that could have been asserted on

direct appeal.” *See, e.g., Nwabue v. SUNY at Buffalo/Univ. Med. Servs.*, 546 F. Appx. 21, 23 (2d Cir. 2013) (citing *Browder v. Dir., Dep’t of Corr.*, 434 U.S. 257, 263 n.7 (1978)). Nonetheless, Umami may take an appeal on those narrow grounds.

Therefore, Servax’s request for an order for the amount of \$1,471,763.74 is DENIED, pending the resolution of Umami’s appeal.

SO ORDERED.

Dated: March 17, 2020

A handwritten signature in black ink, appearing to read "Pollen M. H.", is written above a horizontal line.

Chief Judge

BY ECF TO ALL COUNSEL